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| 10/553,425 | 08/02/2006 | Istvan Lindmayer | 3347-0104PUS1 | 1488 |
| 2292 7590 12/30/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747 | | | | |
| EXAMINER LONG, DONNELL ALAN | | | | |
| ART UNIT | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/553,425

Applicant(s)

LINDMAYER, ISTVAN

Examiner

DONNELL LONG

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 7 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Amendment filed September 18, 2009 has been acknowledged. Newly presented claim 11 has been entered. Claims 1-4, 6, 7, and 11 remain pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation "the groove formed by the cover wall and the parallel downward directed inner wall" in lines 10-11. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 3 recites the limitation "the outside flange of the neck of bottle" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4, 6, 7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marques (3733015) in view of Song et al. (5894962) and further in view of Beck (4795044).

Regarding claim 1, Marques discloses a dispensing cap comprising:

a lower mounting part (2);

an upper covering part (9, 5);

an outlet in the lower mounting part (FIG. 1) comprising a base (1d);

an collar (1e) seated in a groove (5d) formed in the upper covering part; and

an outlet cover (5);

Marques DIFFERS in that it does not disclose a valve, sealing elements, tube support, and siphon tube as claimed. Attention, however, is directed to the Song et al. reference, which discloses another dispensing cap comprising:

a valve including a valve case (19) and a plug (20);

sealing element constituted by the flanged portion as shown in figure 3; and

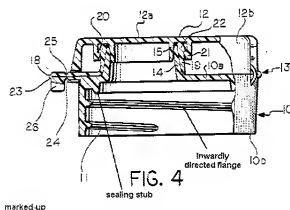
a tube support (11) for holding a siphon tube (12).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Marques reference in view of the teachings of the Song et al. reference by employing a valve, sealing element, tube support, and siphon tube in order to maintain the pouring device in a closed and sealed state when not in use to prevent spillage or leakage.

The modified Marques DIFFERS in that it does not disclose a fixing member and holding tube as claimed. Attention, however, is directed to the Beck reference, which discloses another dispensing cap comprising a fixing member (16a) having breakable joints (23a, 24a, 25a) and a holding tube (22a).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Marques reference in view of the teachings of the Beck reference by employing a fixing member in order to allow a user to determine if the dispensing cap was tampered with or previously opened.

Regarding claim 4, the mounting part (Beck, 10a) is provided with an inwardly directed flange (marked-up fig. 4) capable of being elastically seated from outside to the neck of a bottle and sealing stub (marked-up fig. 4) capable of entering the mouth of a bottle and elastically seating from inside to it.



Regarding claim 6, the dispensing cap includes a diaphragm (Song et al., 17) and a projection (8) surrounding it.

Regarding claim 7, the modified Marques teaches manufacturing the mounting part, cover, and fixing member as a single piece (Beck, FIG. 6).

Regarding claim 11, the modified Marques discloses the claimed invention except for the end of the fixing member being fork-shaped. It would have been an obvious matter of design choice to shape the end of the fixing member in such a way,

since applicant has not disclosed that doing so solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with fixing member of the modified Marques.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marques in view of Song et al. and Beck, as applied to claim 1 above, and further in view of Goodall et al. (6679403).

The mounting part, cover, and fixing member are joined together and assembled into the dispensing cap.

The modified Marques reference DIFFERS in that it does not disclose dowel holes and pins as claimed. Attention, however, is directed to the Goodall et al. reference, which discloses a dispensing cap for bottles comprising dowel holes formed in a mounting part (212), and dowel pins entering the dowel holes formed on a cover (230), capable of joining permanently together the lower and upper parts of the dispensing cap.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Beck reference in view of the teachings of the Goodall et al. reference in order to more effectively secure the cover to the mounting part, which would prevent the unintended opening of the cap.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marques in view of Song et al. and Beck, as applied to claim 1 above, and further in view of Gueret (5505341).

The modified Marques DIFFERS in that it does not disclose a fixing flange as claimed. Attention, however, is directed to the Gueret reference, which discloses another dispensing cap comprising a fixing flange on a mounting part (14) joined with a outside flange (4) of a bottle.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Marques reference in view of the teachings of the Gueret reference by employing snap-connections or interconnecting flanges because doing so would have been a mere equivalent substitution of one suitable connection for another.

Response to Arguments

10. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new grounds of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNELL LONG whose telephone number is (571) 270-5610. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754